

SUPREME COURT OF SEYCHELLES

Unreportable
MC 65/2025

In the matter between:

**FEED FACTORS LIMITED
HDI GLOBAL SE
BALOISE BELGIUM NV
HDI GLOBAL SPECIALITY SE
CAN INSURANCE COMPANY (EUROPE) S.A.
ZURICH INSURANCE PLC
SOMPO INTERNATIONAL INSURANCE (EUROPE) S.A.
SMA S.A.
NAVIVUM MARINE LIMITED
AXERIA IARD**

Applicants

(herein represented by Birketts LLP of Providence House, 141-145 Princes Street, Upswich, UK, IP1 1QJ)

(rep. by Attorney-at-law Mr Brandon Francois)

And

REGISTRAR OF INTERNATIONAL BUSINESS COMPANIES

Respondent

Neutral Citation: *Feed Factors Limited and others v Registrar of International Business Companies* (MC 65//2025) 10th October 2025

Before: Judge Burian

Summary: Application to restore name of International Business Company to the Register – International Business Companies Act 2016.

Heard: 17th September 2025

Delivered: 10th October 2025

RULING

ORDER

Accordingly, I make the following orders:

- I. The Registrar of International Business Companies is to restore the name of the Company Elderby Corporation to the Register of International Business Companies, subject to compliance with the requirements of the IBC Act 2016 for such restoration, which includes:
 - (i) updating of all the company's accounting records, register of members and register of directors;
 - (ii) compliance with the Beneficial Ownership Act, 2020 (Act 4 of 2020) relating to register of beneficial owners;
 - (iii) payment to the Registrar of all outstanding fees and penalties payable under the Act;
 - (iv) payment of the restoration fee payable under paragraph (y) of Part II of the Second Schedule to the Act; and
 - (v) payment of any other fees payable under the Act.
 - II. For clarity and pursuant to section 277(9), once the name of the Company has been restored to the Register, it is deemed to have continued in existence as if it had not been dissolved.
 - III. A copy of this order to be served on the Registrar of International Business Companies.
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J BURIAN

BACKGROUND FACTS:

- [1] Feed Factors Limited was at all material times the owner of a cargo of 4,509.37 MT of Italian Organic Alfalfa in bulk ('the Cargo') and the remaining Applicants were and are underwriters of a policy providing insurance cover for the said cargo.
- [2] The Applicants have instructed Birketts LLP, a law firm in the United Kingdom, via their insurance brokers, Filhet-Allard Maritime ('FAM').
- [3] Elderby Corporation is a Seychelles International Business Company ('the company') Registration No. 224128 which company was dissolved on the 14th October 2024.

- [4] It is further averred that the Applicants have a claim for damages to their cargo which was loaded aboard a merchant vessel 'Kirsten B' (IMO 9151096) ('the vessel') and carried by sea under one bill of lading dated 4th January 2024 and numbered 'No 1' ('the bill of lading'), on a voyage from Ravenna Italy, to Newport, United Kingdom during the month of January 2024.
- [5] The registered owner of the vessel at the time of the voyage was the company.
- [6] The Applicants via Birkett's LLP issued and served an arbitration notice on the company on the 24th of January 2025. In order to pursue the claim against the company in the arbitration proceedings in London, the company must have its legal capacity and personality restored. As a result of the above factors, the Applicants have been aggrieved by the company being dissolved and have a significant interest in having the company restored to the Register of International Business Companies. The Applicants are desirous of the company being restored to the Register and that it is just, fair and reasonable for the Court to order the restoration of the company to the Register in the circumstances.
- [7] To the extent that the company was dissolved for non-compliance with any of its payment obligations under the IBC Act, the Applicants undertake to pay such reasonable outstanding obligations, annual registration and maintenance fees owed by the company, and to the satisfaction of the Respondent within a reasonable time prior to the restoration of the name of the company to the Register. The Applicant further undertakes, as far as practicable, to ensure compliance with all obligations and requests as the Respondent deems necessary in the circumstances. Therefore, it prays for an order to restore the name of the company to the Register of International Business Companies and such further orders as the Court considers appropriate in the circumstances.
- [8] The Respondents did not object to the application.

LAW AND ANALYSIS:

- [9] Section 277 of the Act as amended by Act 32 of 2021 and later 63 of 2021, provides in its subsections (1) and (2) in relevant part as follows:

277. (1) *Subject to subsection (2), where the name of a company has been struck off the Register for any reason, an application to restore the name of the struck off or dissolved company to the Register may be made to the Court by —*

(a) a creditor, member, former member, director, former director, liquidator or former liquidator of the company; or

(b) any other person who can establish an interest in having the company restored to the Register.

(2) An application to restore the name of a struck off or dissolved company to the Register under subsection (1) may be made to the Court —

[...]

(b) within five years of the date of dissolution under Sub-Part I, II, III or IV of the Part XVII of this Act.

[10] The Applicants have established that they have an interest in having the company restored to the Register and as such have the necessary standing to make the present application. The present case was also filed within the time frame of five years of the date of dissolution, with the application being filed on the 31st July 2025.

[11] I refer to subsection (4) of section 277 which provides as follows:

277. *[...]*

(4) On an application under subsection (1) and subject to subsections (4A), (4B) and (5), the Court may—

(a) restore the company to the Register subject to such conditions as it considers appropriate; and

(b) give such directions or make such orders as it considers necessary or desirable for the purpose of placing the company and any other persons as nearly as possible in the same position as if the company had not been dissolved or struck off the Register.

[12] Though I am satisfied that the Applicants are interested parties and as such have standing for the purpose of bring an application for restoration, my attention has been drawn to

sub-section (4A) of section 277 which provides for certain matters as to which the Court must be satisfied before making a Restoration Order as follows:

(4A) The Court shall not restore the name of a struck off or dissolved company if the Court is not satisfied that the company is in compliance of its obligations—

(a) under this Act relating to accounting records, register of members and register of director; and

(b) under the Beneficial Ownership Act, 2020 (Act 4 of 2020) relating to register of beneficial owners.

[13] Considering the requirements above and the status of the Applicants, I do have concerns as to whether they are in a position to themselves bring the company into compliance, as it is only the company that has the statutory duty and legal power to maintain accounting records, registers and beneficial ownership filings. A similar problem was canvassed in the case of *Standish & Anor v Financial Services Authority*¹ in which case the Applicants who were interested parties had petitioned the court for re-instatement of the company so that legal action could be initiated against the company in the United Kingdom.

[14] Despite the potential difficulty faced by the Applicants as canvassed in paragraph [13] above, I do note that in the present application, they have given an undertaking to bear the costs of compliance and agreed to as far as practicable ensure that the company is in compliance with its obligations to the satisfaction of the Respondent. Though they cannot create the registers themselves, they can commit to funding and enabling their reconstruction by the registered agent once the company is restored. In Seychelles every IBC must have a registered agent and even if the company has been struck off, the last registered agent retains record and is the gatekeeper for compliance. Therefore, it is this Court's view that the Applicants must engage the registered agent to ensure that steps are taken to bring the company into compliance.

¹ (CC 2 of 2025) [2025] SCSC 79 (3 June 2025)

CONCLUSION AND ORDERS:

[15] Considering all the above-mentioned facts, I am satisfied that the conditions for the Court to make a restoration order under section 277 can be fulfilled and it would be just and reasonable in the circumstances to grant the application.

[16] Accordingly, I make the following orders:

I. The Registrar of International Business Companies is to restore the name of the company Elderby Corporation to the Register of International Business Companies, subject to compliance with the requirements of the IBC Act 2016 for such restoration, which includes:

- (i) updating of all the company's accounting records, register of members and register of directors;
- (ii) compliance with the Beneficial Ownership Act, 2020 (Act 4 of 2020) relating to register of beneficial owners;
- (iii) payment to the Registrar of all outstanding fees and penalties payable under the Act;
- (iv) payment of the restoration fee payable under paragraph (y) of Part II of the Second Schedule to the Act; and
- (v) payment of any other fees payable under the Act.

[17] For clarity and pursuant to section 277(9), once the name of the company has been restored it shall be deemed to have continued in existence as if it had not been dissolved.

[18] A copy of this order to be served on the Registrar of International Business Companies.

Signed, dated and delivered at Ile du Port on 10th October 2025

Burian

Judge Burian

